The Correctional Investigator Canada

2008-2009

Departmental Performance Report

The Honourable Peter Van Loan, P.C., M.P
Minister of Public Safety

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SECTION I: OVERVIEW

Correctional Investigator's Message

As Canada's federal prison Ombudsman offering independent oversight of federal Corrections, the Office of the Correctional Investigator (OCI) contributes to public safety nationally and the promotion of human rights by providing independent and timely review of offender complaints. The Office makes recommendations that assist in the development and maintenance of a federal correctional system that is fair, humane, effective and accountable. In order to achieve this result for Canadians, the Office monitors and investigates the acts, omissions, decisions and recommendations of the Correctional Service of Canada to help ensure that it carries out its statutory mandate in compliance not only with its own policies and procedures, but also with its domestic and international legal and human rights obligations.

Last year marked the 35th anniversary of the Office of the Correctional Investigator – a milestone that garners pride in all of us working here. Our pride is founded on the commitment to human rights of prisoners and the fundamental societal principle that all offenders – regardless of their circumstances, race, social status, gender, health or religion – are entitled to be treated lawfully, with respect and dignity while in the custody of the Correctional Service of Canada. Over the last 35 years, my Office has promoted accountability through its review of more than 145,000 offender inquiries and complaints. This work has contributed to improvements in the system, but there is still a great deal for us to achieve.

For the second consecutive fiscal year, there has been a decline in the number of offender complaints received by the Office. The number and frequency of staff visits to federal institutions across the country is also down. This reduction is the result of a greater demand being placed upon too few people in the Office being called upon to juggle multiple competing priorities compounded by high turnover during the reporting period. The numbers reported this year are a sign of an organization under duress and in transition, not decline.

The Office conducted two very resource-intensive investigations in this past year. The Office publicly released its findings and recommendations in these disturbing cases **A Failure to Respond** in May 2008 and ***A Preventable Death*** in March 2009. The conduct of these investigations and follow-up work required a redistribution of workload and a reorganization of priorities within the Office.

Not without significant reservation, a management decision to decrease the number of investigative visits to institutions was made so that the OCI could adequately carry out these priority investigations. As a result, the organization was left challenged in its ability to get out and meet with offenders and offender groups in institutions and seek timely resolution to their issues. This was not an easy decision however; this short term disruption in regular operations will pay off in long term resolution of systemic concerns.

Finally, it is worth noting that my Office developed a program integrity business case for incremental permanent funding to address increasing workload pressures primarily related to volume of complaints, complexity of cases and special reviews which are directly associated with several emerging trends in the correctional environment. The organization will be working with the Central Agencies to secure permanent incremental funding for April 2010.

On a personal note, I was extremely pleased to have received the confimation of my reappointment, effective April 1, 2009, to a three-year term as Correctional Investigator. It is therefore with renewed conviction, energy and optimism that I present the 2008-2009 Departmental Performance Report.

Howard Sapers
Correctional Investigator

Raison d'être

The Office of the Correctional Investigator provides Canadians with timely, independent, thorough and objective monitoring of their federal correctional system to ensure that it remains safe, secure, fair, equitable, humane, reasonable and effective. Essentially, its oversight role is to ensure that the Correctional Service of Canada carries out its statutory mandate in compliance with its domestic and international legal and human rights obligations.

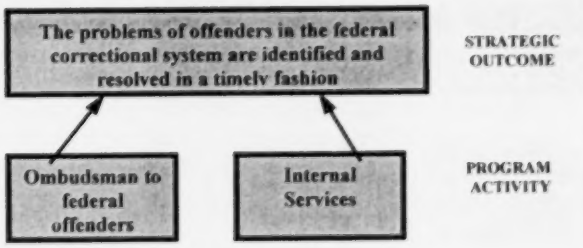
Responsibilities

The Correctional Investigator is mandated by Part III of the *Corrections and Conditional Release Act* as an Ombudsman for federal offenders by providing independent and timely review of offender complaints. The primary function of the Office is to investigate and bring resolution to individual offender complaints. From time to time, the OCI identifies specialized areas of focus. In the reporting period, Aboriginal offenders, women offenders, offenders with mental health issues, institutional violence, use of force and deaths in custody investigations have been so identified.

The Office, as well, has a responsibility to review and make recommendations on the Correctional Service of Canada's policies and procedures associated with the areas of individual complaints to ensure that the systemic areas of concern are identified and appropriately addressed.

Strategic Outcome and Program Activity Architecture (PAA)

The Office of the Correctional Investigator's only strategic outcome is: "The problems of offenders in the federal correctional system are identified and resolved in a timely fashion". Its main program activity is the "Oversight of Correctional Operations", which regroups the four operational priorities identified in the Summary Performance section of this Report. The other program activity, Internal Services, supports the delivery of the Office's Ombudsman role to federal offenders as well as its corporate obligations to the Central Agencies.


The problems of offenders in the federal correctional system are identified and resolved in a timely fashion
STRATEGIC OUTCOME
Ombudsman to federal offenders
Internal Services
PROGRAM ACTIVITY

Summary of Performance

2008–09 Financial Resources (thousands)

Planned Spending	Total Authorities	Actual Spending
$3,793	$4,229	$3,532

2008–09 Human Resources (FTEs)

Planned	Actual	Difference
30	24	6*

* The OCI received temporary funding (for 2008-09) from the Management Reserve but was unable to attract and hire additional employees so opted to retain consultants to assist in the delivery of its mandate.

Performance Summary

Strategic Outcome 1: The problems of offenders in the federal correctional system are identified and resolved in a timely fashion.

Performance Indicators	Targets	2008–09 Performance
1. Level of Service: Percentage of OCI responses to offender complaints	1. 95%	Because of the realignment of investigative staff to focus on two special reviews coupled with important turnover (see Priorities below), the organization's overall performance in attaining these targets fell short of expectations. Specifically, the number of institutional visits declined, as did the number of interviews and the number of days spent at the institutions all of which affected the organization's ability to reach its pre-established targets. A management decision, although difficult, to decrease the number of investigative visits to institutions was made so that the OCI could adequately carry out these priority investigations. As a result, the organization was unable to get out and meet with offenders and offender groups in institutions and seek timely resolution to their issues to the degree it expected. This short term disruption in regular operations will pay off in long term resolution of systemic concerns. With regards to the timeliness of responses, the OCI did not meet its targets: - Internal responses: 49% within 5 days; - Inquiry: 58% within 15 days; and - Investigations: 61% within 45 days.
2. Accessibility: Number of contacts, institutional visits and interviews (s. 169, *CCRA*)	2. 95% quarterly visits to maximum and medium security institutions and 95% semi-annual visits to minimum security institutions	
3. Timeliness: OCI response time to offender complaints and referrals	3. OCI timeliness standards: internal response = 90% within 5 days; inquiry = 85% within 15 days; investigations = 80% within 45 days	

Program Activity	2007–08 Actual Spending ($ 000 thousands)	2008–09 Main Estimates	2008–09 Planned Spending	2008–09 Total Authorities (1)	2008–09 Actual Spending	Alignment to Government of Canada Outcomes[1]
Ombudsman to federal offenders	$3,122	$3,793	$3,793	$4,229	$3,532	Safe and Secure Canada By providing independent oversight of federal Corrections, the Office contributes to public safety by providing independent and timely review of offender complaints.
Total	$3,122	$3,793	$3,793	$4,229	$3,532	

(1) The Total Authorities amount includes $194,529 received from Treasury Board for severance entitlements. In addition, the Office of the Correctional Investigator experienced seven departures or 30% of its complement in the reporting period. Delays in replacing these incumbents contributed to the authorities not being used. Two vacancies, including an executive position, were not staffed by the end of the reporting period.

[1] Information on how to present departmental alignment to Government of Canada outcomes in the DPR is available on the Secretariat's website at http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/mrrsp-psgrr/wgf-cp_e.asp.

Contribution of Priorities to Strategic Outcome

Operational Priorities	Type[2]	Status	Linkages to Strategic Outcome(s)
1. Investigate and resolve individual offender issues	Ongoing	Not met	These four priorities stem from the Office of the Correctional Investigator's mandate. As such, all are clearly linked to the organization's only strategic outcome: "The problems of offenders in the federal correctional system are identified and resolved in a timely fashion".
2. Investigate, resolve and follow-up on systemic offender issues	Ongoing	Successfully met	
3. Monitor, evaluate, and provide representations on CSC's management of mandated issues (s.19 investigations and use of force incidents)	Ongoing	Successfully met	
4. Investigate, resolve and provide leadership on specifically identified issues (Women and Aboriginal Offenders, and Mental Health)	Ongoing	Successfully met	

Priority 1:

The OCI received 6,059 complaints in fiscal year 2008-2009. OCI investigative staff conducted 1,252 offender interviews and spent 205.5 days within federal correctional institutions. Although the number of complaints is relatively the same as in the previous fiscal year (6,289), there has been a decrease in the number of interviews (2,039) and a decrease in the number of days spent in institutions (297). These variances were largely attributed to turnover amongst investigative staff which reached a peak of 40 % of the investigative workforce during the summer of 2008 and the realignment of staff to conduct special investigations into deaths in custody. It is important to note, that the demands of investigative work, including extensive travel, stressful environment, never ending complaints coupled with demanding clients translates in higher than normal turnover in comparison to other business lines. This is an operational reality for the organization which is clearly linked to the ability to access offenders in the institutions.

During this period, the OCI did not visit institutions and only responded to complaints of an urgent nature. Several selection processes were initiated to staff positions within the investigative stream to address the gap. A two-week training program was developed and delivered to new staff in September 2008 and a shorter training program was provided to additional investigative staff in May 2009. The OCI has since resumed regular visits to federal correctional institutions.

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[2] Type is defined as follows: **previously committed to**—committed to in the first or second fiscal year prior to the subject year of the report; **ongoing**—committed to at least three fiscal years prior to the subject year of the report; and **new**—newly committed to in the reporting year of the RPP or DPR.

Priority 2:

During each institutional visit, OCI investigative staff reviewed the institution's performance on OCI Areas of Focus based on reports from the Service's own database. Concerns and/or best practices were reviewed with the respective Warden and reiterated in debriefing letters forwarded to the Warden following each visit. Visiting requirements were subsequently reduced pending the arrival and training of new staff. These operational adjustments did not allow for ongoing monitoring and reporting on the various institutions' performance on Areas of Focus as well as systemic issues identified by offender groups.

Priority 3:

In the reporting period, the OCI received documentation that relates to 1204 use of force incidents that occurred in federal correctional institutions. Despite limited resources available to the use of force portfolio, the organization managed to review and complete a report for 712 incidents involving use of force. This completion rate is deemed satisfactory given the resource issue and the complexity of the cases.

Correctional Service Canada is required as per Section 19 of the *Corrections and Conditional Release Act* to conduct an investigation into incidents that involve a serious bodily injury or a death within their institutions and in the community. The OCI is mandated to review each investigative report completed by Correctional Service that relate to incidents of serious bodily injuries and deaths. This task was directed to the Manager of Investigations - Section 19 investigation/use of force who left in May 2008. Although the organization assigned one individual on an acting basis for several months while a selection process was launched, competing priorities did not allow the OCI to address the backlog of Section 19 reviews. In March and June 2009, the OCI hired two consultants, who are both knowledgeable and have extensive experience in corrections with a view to addressing the backlog of Section 19 reviews.

In this fiscal year, the OCI has received 90 investigations convened as per Section 19 of the CCRA. Sixty-four investigations have been reviewed and 36 are awaiting a review. We have also received 90 convening orders and we are awaiting receipt of these investigative reports from Correctional Service.

In the last quarter, the OCI launched a review of its investigative process and finalized a number of selection processes to staff key positions within the investigative stream. As part of a realignment of its resources, the OCI has also reduced the number of institutions assigned to investigative staff, but added to their responsibilities, the review and follow up of Section 19 investigations that involve incidents of serious bodily injuries and deaths at their institutions. This information is fundamental to their knowledge of their assigned institutions and to the investigation of offender complaints.

Priority 4:

During the reporting period, the OCI relied on a Manager of Investigations responsible for the Women's Issues portfolio including the liaison with authorities on women's issues at

National Headquarters of CSC. As part of strategic planning and in an effort to disseminate the knowledge and expertise that relate to women's issues, the OCI distributed women's institutions amongst women investigative staff in the latter half of the fiscal year. A training module was developed and offered to all OCI investigative staff on issues related to federally sentenced women.

Statistically, there were 518 complaints received from women offenders. Investigative staff conducted 121 interviews with women offenders and spent 22 days in the facilities designated for federally sentenced women.

The OCI received 580 complaints from Aboriginal offenders. The complaints focused on the same issues as those submitted by non-Aboriginal offenders and included concerns with health care, transfers and issues with staff performance.

Given the OCI's ongoing challenges in staffing the position of a Manager of Investigations - Aboriginal Issues and the importance of this portfolio, the OCI opted to hire an expert consultant to conduct a review and provide a status report on the progress made by the Correctional Service in implementing its Aboriginal correctional strategy. The report is expected in the fall of 2009.

The OCI continues to be concerned with the prevalence of offenders who suffer from mental health issues as well as the assessment and quality of mental health services available to federal offenders. The OCI hired a new Manager of Investigations dedicated to the Mental Health Portfolio in 2008. This individual was assigned one of the five treatment centres and an institution where 80% of the offender population suffer from mental health issues. In addition, a mental health training module was developed and offered to all OCI investigative staff.

The 2008-2009 Report on Plans and Priorities did not identify any management priorities; however, in the last quarter of the fiscal year, preliminary work was started on the development of an Information Management implementation plan that will see the organization develop a new file structure that will house both paper and electronic records in a more structured manner which will facilitate the search and retrieval of operational information.

Management Priorities	Type[2]	Status	Linkages to Strategic Outcome(s)
Information Management	• Although this initiative was not identified as a Management priority in the 2008-2009 RPP, certain activities were undertaken in the last quarter of the reporting period in this regard.	The preliminary project management work completed. This output successfully met the expectations of the organization and is viewed as a positive step in the upgrading of the organization's IM capacity.	This initiatve is clearly linked to the organization's strategic outcome: "The problems of offenders in the federal correctional system are identified and resolved in a timely fashion". The work accomplished in the last quarter in restructuring the organization's classification nomenclature will facilitate the retention, search and retrieval of offender information maintained by the OCI.

Risk Analysis

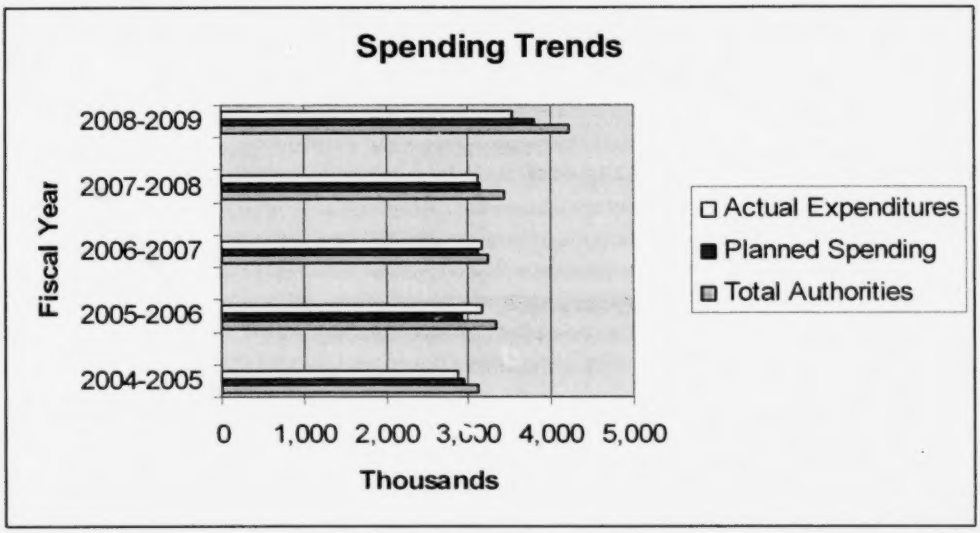
The operational environment in which the Office of the Correctional Investigator functions is complex. As in years past, it is with the resolution of the individual offender issues at the institutional level where the OCI has achieved its best performance in terms of achieving expected results and its strategic outcome.

The operational challenges for the organization are rooted in the maintaining of an independent and objective review process within the correctional environment where the organization has virtually no control over either the number of complaints or the extent of the required investigative response.

In addition, the OCI has seen the complexity of complaints increase over the last few years. Systemic issues including deaths in custody, correctional practices for the mentally ill, use of force and Aboriginal corrections, demand more investigative attention and the realignment of resources from daily operations to special reviews also impact on the organization to meet its mandate.

Expenditure Profile

For a five-year period, from 2004-2005 to 2008-2009, the Office of the Correctional Investigator's base budget remained stable averaging 3 million dollars annually (See Spending Trends table below). The organization was successful in the last two fiscal years in securing temporary funding from the Treasury Board's Management Reserve to address workload pressures resulting in a noticeable increase to its budget authorities especially in 2008-2009. The organization's inability to staff vacancies in a timely manner and attract candidates to a term assignment coupled with the redeployment of investigative staff to special investigations in the last two years affected the attainment of performance objectives as demonstrated in the Performance Summary table.



This financial information is relevant as it underscores the organization's status as a micro agency. The average annual budgetary lapse over this period was 8.0%.The budgetary variance in 2008-2009 was 16% as a result of the temporary budgetary increase from the Management Reserve to address workload increases, staff turnover and the organization's inability to replace these vacancies effectively.

Voted and Statutory Items

(Thousands)

Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2006–07 Actual Spending	2007–08 Actual Spending	2008–09 Main Estimate[3]	2008–09 Actual Spending
45	Operating expenditures	2,831	2,754	3,341	3,058
(S)	Contributions to employee benefit plans	325	368	452	474
	TOTAL	3,156	3,122	3,793	3,532

The difference between fiscal years 2007-2008 and 2008-2009 relate to temporary funding received from Treasury Board's Management Reserve to address workload issues. In year one of this funding, the Office received 287,000 and 711,000 in the reporting period.

[3] The vote numbers and wording must be identical to the department's vote numbers and wording as identified in the department summary of the Main Estimates.

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome: The problems of offenders in the federal correctional system are identified and resolved in a timely fashion

The OCI's strategic outcome is consistent with the organization's legislative mandate as defined in section 167 of the *Corrections and Conditional Release Act*. It states that its "function is to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Commissioner or any person under the control and management of, or performing services for or on behalf of, the Commissioner that affect offenders either individually or as a group." Ombudsman offices have been established throughout Canada and the world because of an increasing understanding of the need to protect individual rights and enhance the accountability of public institutions. In this regard, Ombudsman organizations have come to be viewed as useful and effective instruments to help citizens secure fair treatment from their governments. In addressing offender complaints and assessing systemic issues, the OCI makes recommendations that assist in the development and maintenance of an answerable federal correctional system that is fair, humane and effective. This is the benefit for Canadians.

In the reporting period, OCI did not completely meet pre-established performance targets. As stated throughout this report, several factors that were significantly outside the control of the organization contributed to this situation. In addition, the OCI was faced with achieving a balance between addressing individual complaints and dealing with systemic issues – specifically, deaths in custody and mental health. See Performance Summary Table for details.

Program Activity by Strategic Outcome

Program Activity 1: Ombudsman for federal offenders					
2008–09 Financial Resources ($ thousands)			**2008–09 Human Resources (FTEs)**		
Planned Spending	**Total Authorities**	**Actual Spending**	**Planned**	**Actual**	**Difference**
3,793	4,229	3,532	30	24	6

This activity's success was impeded by human resources issues identified previously. Certain requirements of the organization's mandate were not met successfully or to the degree expected to a large extent as a result of the realignment of resources to conduct special reviews but also the turnover rate specifically in the summer of 2008.

Benefits for Canadians

All activities performed by the organization's investigative staff, including, institutional visits, responding to offender concerns, follow-up and analysis of systemic issues, Section 19 and use of force analysis and investigations as well as specialized investigations for Women and Aboriginal issues form the only program activity linked to the strategic outcome – Ombudsman or federal offenders. The achievement of this mandate benefits Canadians in contributing towards public safety and the promotion of human rights by providing independent and timely review of offender complaints.

Performance Analysis

The OCI's primary activity, Ombudsman for federal offenders, was conducted appropriately. Investigative staff carried out professional, timely (when possible) and responsive analysis of offender complaints and investigations throughout the reporting period. However, the number and frequency of institutional visits across the country was down in comparison to the previous year. As a result of a decreased presence within the institutions, OCI services were used less often than in previous years.

Lessons Learned

Access, timeliness and quality of investigations are core elements of the Ombudsman function. To ensure these elements were completely adhered to, the OCI embarked in a strategic planning exercise which will culminate with the update of its Investigative Policies and Procedures Manual. From this review, a more streamlined organizational structure that will allow a better allocation of resources to address priority areas and systemic concern will be developed. In addition, the OCI will continue discussions with the Central Agencies with a view to securing permanent incremental funding for 2010.

SECTION III: SUPPLEMENTARY INFORMATION

Financial Statements

The Office of the Correctional Investigator's 2008-2009 Financial Statements (unaudited) can be found at: www.oci-bec.gc.ca

Other Items of Interest

A preventable death: Report into the Death of Ashley Smith

Report on the circumstances surrounding the Death of a Federal Inmate – A failure to Respond

Speaking Notes for Mr. Howard Sapers and Dr. Ivan Zinger of their Appearance before the *Standing Committee on Public Safety and National Security – June 2, 2009*

Speaking Notes for Mr. Howard Sapers of his Appearance before the Standing Committee on Justice and Human Rights – May 25, 2009

Can be found at:

www.oci-bec.gc.ca

Complaints by Category

CATEGORY	INTERNAL RESPONSE	INVESTIGATION	TOTAL
Administrative Segregation	**99**	**324**	**423**
Case Preparation	**129**	**128**	**257**
Cell Effects	**185**	**231**	**416**
Cell Placement	**1**	**42**	**43**
Claims Against the Crown	**26**	**39**	**65**
Community Programs/Supervision	**10**	**8**	**18**
Conditions of Confinement	**151**	**222**	**373**
Correspondence	**51**	**54**	**105**
Death or Serious Injury	**6**	**11**	**17**
Decisions (General) - Implementation	**58**	**55**	**113**
Diet	**14**	**27**	**41**
Discipline	**22**	**22**	**44**
Discrimination	**8**	**4**	**12**
Employment	**41**	**60**	**101**
File Information	**135**	**118**	**253**
Financial Matters	**65**	**75**	**140**
Food Services	**24**	**39**	**63**
Grievance Procedure	**67**	**142**	**209**
Harassment	**28**	**25**	**53**
Health and Safety - Worksite	**4**	**5**	**9**
Ion Scan/Drug Dog	**4**	**1**	**5**
Health Care	**235**	**616**	**851**
Mental Health	**15**	**47**	**62**
Methadone	**11**	**25**	**36**
Official Languages	**6**	**7**	**13**
Operation/Decisions of the OCI	**17**	**8**	**25**
Programs	**147**	**300**	**447**
Urinalysis	**8**	**6**	**14**
Use of Force	**11**	**40**	**51**
Visits	**108**	**203**	**311**
Outside Terms of Reference			
Parole Process/Decisions	81	80	161
Other Issues	34	21	55
Grand Total	**2334**	**3725**	**6059**

Glossary

Complaint: may be made by an offender or a third party on behalf of an offender by telephone, facsimile, letter or during interviews held by the OCI's investigative staff at federal correctional facilities. The legislation also allows the OCI to commence an investigation at the request of the Minister or on the OCI's own initiative.

Internal Response: a response provided to a complainant that does not require consultation with any sources of information outside the OCI.

Investigation: a complaint where an inquiry is made with the Correctional Service and/or documentation is reviewed/analyzed by the OCI's investigative staff before the information or assistance sought by the offender is provided. Investigations vary considerably in terms of their scope, complexity, duration and resources required. While some issues may be addressed relatively quickly, others require a comprehensive review of documentation, numerous interviews and extensive correspondence with the various levels of management at the Correctional Service of Canada prior to being finalized.